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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Contemporary
Forms of Slavery
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17-26 June 1996
Item 5 of the provisional agenda

REVIEW OF DEVELOPMENTS IN THE FIELD OF CONTEMPORARY FORMS OF SLAVERY AND MEASURES TO PREVENT AND REPRESS ALL CONTEMPORARY FORMS OF SLAVERY

Report of the Secretary-General

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Introduction

1. The Secretary-General has received information relating to various sub-items of item 5 of the provisional agenda. A summary of the information received is provided in the present document.

I. INFORMATION RECEIVED FROM GOVERNMENTS

Angola

[Original: French]
[20 May 1996]

2. The Government of Angola intends to ratify the conventions on slavery in the near future. Ratification of the conventions is being held up only by the fact that all the country's resources are committed to the peace process.

3. Child pornography is absolutely prohibited and there is legislation to deal with any occurrences of it.

Japan

[Original: English]
[29 May 1996]

4. Japan has in force various punitive laws for the prevention of child pornography.

(a) Penal Code

Article 175 (act of distributing or selling an obscene writing, picture or other object or of publicly displaying the same or act of possessing the same for sale; imprisonment with labour for not more than two years or a fine of not more than 2,500,000 yen or a minor fine (1,000 yen up to less than 10,000 yen).

Article 176 (act of committing indecency upon a male or a female person (under 13 years of age), regardless of its method; imprisonment with labour for not less than six months nor more than seven years).

Article 177 (act of having sexual intercourse with a female person (under 13 years of age), regardless of its method; imprisonment with labour for not less than 2 years nor more than 15 years).

(b) Child Welfare Law

Article 34, paragraph 1, item (6), article 60, paragraph 2 (act of making a child (under 18 years of age) commit obscene acts; imprisonment with labour for not more than one year or a fine of not more than 300,000 yen).

Article 34, paragraph 1, item (7), article 60, paragraph 2 (act of transferring the custody of a child (under 18 years of age) to a person who is liable to commit an act violating punitive laws; imprisonment with labour for not more than one year or a fine of not more than 300,000 yen).

Article 34, paragraph 1, item (9), article 60, paragraph 2 (act of keeping a child (under 18 years of age) under one's control for purposes of making him or her do an act harmful to himself or herself mentally or physically. For instance, an act of keeping a child under one's control for the purpose of making pornographic objects involving the child is a crime; imprisonment with labour for not more than one year or a fine of not more than 300,000 yen).

Philippines

[Original: English]
[29 May 1996]

5. The Philippines has taken measures, already applicable, designed to protect minors from exposure to or involvement in child pornography. The Republic Act No. 7610 provides stronger deterrence and special protection against child abuse, exploitation and discrimination. It is a special law enacted to protect minors from exposure to or involvement in child pornography. The law classifies child pornography as a criminal offence. It states that any person who hires, employs, uses or persuades, induces or coerces a child to perform in obscene publications or pornographic materials or to sell or distribute the said materials shall suffer a penalty of 8 to 10 years in prison. If a child used as a performer, subject or seller/distributor is below 12 years of age, the penalty shall be 10 to 12 years in prison.

St. Kitts and Nevis

[Original: English]
[15 May 1996]

6. With regard to slavery, St. Kitts and Nevis stated that slavery is prohibited under the Constitution.

(a) Section 6 (1): "A person shall not be held in slavery or servitude";

(b) Section 6 (2): "No person shall be required to perform forced labour".

7. However, as of 30 June 1993, St. Kitts and Nevis has not ratified the Slavery Convention of 1926 as amended, in spite of a recommendation made on 27 July 1993 to the former administration to ratify the said Slavery Convention of 1926 as amended.

8. It is interesting to note that on 2 November 1983, the Government of St. Kitts and Nevis made a unilateral declaration to the Secretary-General of

the United Nations that treaties extended to the Government of the United Kingdom would apply provisionally to St. Kitts and Nevis until a determination was made by the Government of St. Kitts and Nevis.

9. With regard to child pornography, the Government of St. Kitts and Nevis declared that child pornography is prohibited under section 2 (c) of the Probation and Child Welfare Board Act 1994 (No. 6 of 1994) which states, inter alia: "child abuse means non-accidental injury inflicted upon a child by a person responsible for the care and maintenance of the child ... and includes sexual abuses as defined by law, or the involvement of any child in activities of a sexual nature to which they cannot give consent, including fondling, kissing, engaging in prostitution, the photographing or depiction of any child for indecent or pornographic purposes or a course of sexual conduct that causes or is likely to cause the health or welfare of the child to be harmed or threatened".

10. However, in spite of the above prohibition pornographic materials, such as videos, are at times imported into the Federation of St. Kitts and Nevis. This is compounded by Cable Television which occasionally broadcasts XXX rated movies during prime viewing hours. Parents are usually advised to exercise their parental discretion over their children as to which movies they can view.

11. In short, the Government of St. Kitts and Nevis, as a State party to the Convention on the Rights of the Child, is committed to implementing the Convention and its principles more effectively in the process of carrying out reforms to the internal legal order.

II. INFORMATION RECEIVED FROM UNITED NATIONS ORGANS AND BODIES

Committee on the Rights of the Child

[Original: English]
[23 May 1996]

12. As clearly illustrated in the concluding observations adopted after consideration of State parties' reports on the implementation of the Convention on the Rights of the Child, the Committee on the Rights of the Child attaches particular importance to the implementation of articles 32, 34 and 36 of the Convention. The Committee has focused attention on this issue while taking due account of the holistic approach to the human rights of children taken in the Convention, which stresses the indivisible and inter-related nature of all the rights it covers, each being inherent to the human dignity of the child.

13. The same spirit guided the Committee during its general discussion of the economic exploitation of children which took place at its fourth session (A/49/41, paras. 560-572).

14. The Committee has included in its general guidelines regarding the form and content of initial reports the issues of sexual exploitation and sexual abuse, sale, trafficking and abduction, as well as other forms of exploitation, under a section on special protection measures (subsection on

children in situations of exploitation, including physical and psychological recovery and social reintegration). It is at present drafting its guidelines for periodic reports, and the areas covered by the Working Group on Contemporary Forms of Slavery will be duly covered in this new set of guidelines, in the light of experience gained in the consideration of initial reports.

15. Finally, the Committee has been actively involved in the preparatory process of the World Congress against Commercial Sexual Exploitation of Children and will be represented at the World Congress in Stockholm in August 1996.

Division for the Advancement of Women

16. The Division wishes to bring to the attention of the Working Group on Contemporary Forms of Slavery relevant paragraphs of the national reports relating to violence against women prepared by Member States for submission to the Fourth World Conference on Women, held in Beijing from 5 to 15 September 1995. These reports contain information relating to paragraphs 10, 13 and 14 of Commission on Human Rights resolution 1995/27 which may be useful for the Working Group to bear in mind during its deliberations. The Division also wishes to bring to the attention of the Working Group Strategic Objective D.3 of the Platform for Action dealing with the elimination of trafficking in women and assistance to victims of violence due to prostitution and trafficking.

17. With respect to Sub-Commission resolution 1995/16, paragraph 21, the Division also wishes to inform the Working Group that during the latest session of the Committee on the Elimination of Discrimination against Women, representatives of the Government of Bolivia, in introducing the periodic report, provided information on the issue and promised to send a copy of a publication dealing with the problem, as well as information on measures envisaged or already taken. The Division has not yet received the information and will send it to the Working Group upon receipt.

18. Furthermore, regarding chapter V on migrant women workers of the Working Group's report, the Division is planning to bring to the attention of the Working Group the report of the Expert Group Meeting on Violence against Women Migrant Workers, which will take place in Manila from 27 to 31 May 1996. The Division will make an effort to provide the Working Group with the results of the Expert Group Meeting, which are also to be presented to the Economic and Social Council and the General Assembly.

United Nations Office in Vienna

[Original: English]
[15 April 1996]

19. In 1994, the Commission on Crime Prevention and Criminal Justice in its resolution 3/2, invited the Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD), in cooperation with the Secretary-General and the other United Nations and affiliated institutes, to prepare a report on the world situation with regard to international traffic

in minors, using information available to the United Nations system, for submission to the Commission on Crime Prevention and Criminal Justice at its fourth session (E/CN.15/1995/4). The Commission also decided that the matter of international traffic in minors should be given priority consideration by the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

20. In 1995, in its resolution 7, the Ninth United Nations Congress, inter alia invited States to examine ways, consistent with their national legal systems, of ensuring that illicit traffic in children and other violent acts against them including sexual exploitation of children for commercial purposes, committed abroad by one of their nationals, is effectively sanctioned and that prosecution is not prevented by gaps in international cooperation. The Ninth Congress invited the Commission to initiate the process of requesting the views of States regarding the process of elaborating an international convention on the illicit traffic in children which may embody necessary elements to combat efficiently this form of transnational organized crime.

21. A series of resolutions emanating from the Commission on Crime Prevention and Criminal Justice condemned and pointed to the need for a more effective response on the part of criminal justice systems to the illegal smuggling of migrants and violence against women (and the girl child) in all its forms. The abduction of children, particularly the girl child, for purposes of trafficking and sex, and other forms of exploitation for financial gain - integral elements of both migrant smuggling and violence against women - have relevance to organ traffic. The policy-making bodies dealing with human rights and with the advancement of women have drawn attention to the plight of migrant workers in general and of female migrant workers in particular. The Commission on Crime Prevention and Criminal Justice views this plight in the broader context of trafficking in persons or in "human cargo", including involving migrants.

22. Two reports by the Secretary-General, on the illegal smuggling of migrants (the third in a series of reports) and on the draft plan of action on the elimination of violence against women (formulated in accordance with Council resolution 1995/27, IV (C)), are now being processed for the fifth session of the Commission on Crime Prevention and Criminal Justice. In both cases, the aim is to upgrade the response of and action by criminal justice systems, on the basis of enabling criminal law and procedure. As might be observed from the Secretary-General's reports on migrant smuggling, the nature of some of the legislation enacted or amended is indicative of the types of basic weaknesses in essential areas of criminal law and procedure, including in terms of mutual assistance and cooperative transborder law enforcement cooperation. As might be seen from States' observations in the Secretary-General's report on the draft plan of action, as well as from the proposed measures in the draft plan, basic weaknesses exist in enabling criminal law and procedure in terms of all forms of trafficking involving or affecting women and the female child.

23. Building on the Beijing Declaration and Platform for Action, particularly the strategic objectives of the priority areas of concern, D.1-3 (violence against women) and L.1-9 (the girl child), the Secretary-General's proposed

draft plan, aiming at an upgraded, "fair treatment" response by criminal justice systems, across sectors, from a gender-balanced perspective, specifies a set of measures including those involving criminal law and procedures, that would prohibit, criminalize, deter and sanction all acts defined as "violence against women" (and against the girl child) by the United Nations Declaration - subsequently reconfirmed and expanded in the Beijing Platform. Taking that definition as its (legal) scope, framework, and basis for action, the draft plan, then, would outlaw organ traffic, and the inter-related acts of "violence", exploitation or abuse, including abduction, torture, murder within or outside of trafficking in persons operations.

24. From the substantive point of view of the Commission, and according to its knowledge of the matter, there are indications, from various sources, of a dramatic increase in some parts of the world of the abduction of children for purposes of the network and operations of the global traffic in persons assisted by local, associated organized crime syndicates. Children are abducted, instrumentally used and exploited in involuntary prostitution, labour and other slave-like practices and/or in pornography, one form of which involves violent body mutilation and murder, after which their organs might be used in commercial traffic. Some children are abducted with the sole purpose of such traffic. An important source for such organized crime activity derives from trafficking in human cargo, i.e. populations of illegal migrants who are both vulnerable and amenable to the lure of (unknown) "employment prospects" and an enhanced quality of life.

25. As with all forms of trafficking, organized crime syndicates take advantage of loopholes in global law enforcement and detection infrastructures and responses. In some countries where this phenomenon is on the rise, the response on the part of criminal justice systems is inadequate or non-existent. In the absence of the possibility of exerting local or national political pressure, victim groups seek international forms of recourse, justice and solution. This is where all relevant policy-making bodies can play an important role, particularly in coordinating efforts to close source and demand markets and transit routes, break up organized crime syndicates and upgrade the law enforcement infrastructure on a global scale, assisting those countries which represent the weakest points in the chain of countermeasures.

United Nations Development Programme

[Original: English]
[8 April/8 May 1996]

26. The Administrator of UNDP felt confident that none of the development activities that UNDP supports in any way promoted bonded labour or any of the other forms of slavery.

27. The Resident Representative of UNDP in Mauritius, confirmed that none of the UNDP assisted projects in either Mauritius or Seychelles promoted bonded labour or any of the other forms of slavery set out in Commission resolution 1995/27 and Sub-Commission resolution 1995/16.

28. The Resident Representative of UNDP in Papua New Guinea also stated that nothing had come to the attention of the office on the practice of contemporary forms of slavery in the country.

United Nations Educational, Scientific and Cultural Organization

[Original: English]
[15 May 1996]

29. In connection with operative paragraph 46 of Sub-Commission resolution 1995/16, UNESCO would like to point out that the confidential procedure foreseen by Decision 104 Ex/3.3 of the Executive Board for examination of communications regarding alleged violations of human rights is not only aimed at children and persons subject to "contemporary forms of slavery" as mentioned in that paragraph, but rather at all alleged violations of human rights in the fields of competence of UNESCO.

30. The contribution of UNESCO to the implementation of provisions and standards designed to ensure protection of children and other persons exposed to contemporary forms of slavery may be summarized under the heading of promotion of the 1960 UNESCO Convention and Recommendation against Discrimination in Education and of the Convention on the Rights of the Child. The link between these Conventions and the prevention of the exploitation of children is clear. Societies which provide access for all their children to relevant, humanistic education (arts. 28, 29 of the Convention on the Rights of the Child) are less likely to tolerate contemporary forms of slavery.

31. The programmes of UNESCO most involved in these efforts are the following: in the field of basic education, the Organization executes its E9 Programme aimed at the high population countries, most of which are in Asia; and its Primary Education Programme, which intervenes both at the level of prevention and the level of rehabilitation through appropriate education programmes for vulnerable children and communities.

32. In the field of the young child and the family environment, UNESCO contributes to community education for parents and children but its main objective in the context of the above resolutions is to promote the Convention on the Rights of the Child and to inform its partners of the many activities undertaken throughout the Organization which contribute to the implementation of the Convention. Thus, UNESCO brings to the notice of education ministries articles 28 and 29 of the Convention and tries to ensure that States parties to the Convention are aware of their obligations under article 42. Failures in these fields are brought to the notice of the Committee on the Rights of the Child through specific reports.

33. In the field of humanistic, cultural and international education, UNESCO is promoting humanistic values - in particular democracy, peace and tolerance - in education. A sixth consultation of Member States will take place for the thirtieth session of UNESCO's General Conference in 1999.

34. In the area of preventive education, UNESCO contributes significantly to the field under review through its HIV/AIDS awareness and education programme. Knowledge of the health risks of child prostitution for the population as a whole, as well as for the dignity and well-being of these children, is a prerequisite for the eradication of child prostitution.

35. In compliance with article 17 of the Convention, UNESCO is developing an important initiative against violence in the media and towards better information sources for children. Again, this programme can make a good contribution to preventing the exploitation of children.

United Nations Population Fund

[Original: English]
[12 April 1996]

36. UNFPA is highly committed to the promotion of the human rights of all, and particularly to the elimination of all forms of discrimination against women, to providing assistance to women to obtain legal literacy on these rights, and to the integration of such issues in its in-school activities as part of women's empowerment. UNFPA has supported and will continue to support activities to help raise awareness about the effects of harmful practices that affect the health of women and children.

37. As an important part of the follow-up to the International Conference on Population and Development and the Fourth World Conference on Women, UNFPA is continuing its close cooperation with the Commission for the Elimination of Discrimination against Women. The Fund is also initiating collaborative activities with UNIFEM and women NGO advocates to promote the ratification and implementation of relevant human rights agreements by all Governments. The newly revised guidelines for UNFPA activities in the area of gender, population and development provide for active advocacy for women's empowerment and the protection of their rights.

38. UNFPA is also currently supporting a project executed by the International Council of Women for the production of films and other awareness/information materials on violence and exploitation through world trafficking of women and children in various countries. These films will focus on all forms of sexual harassment, exploitation and trafficking in women, the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism, and violation of human rights, as well as the increase in HIV infection among victims of trafficking networks.

39. UNFPA would like to reiterate that it has always been dedicated to issues pertaining to the eradication of violence against women and children and, as part of this commitment, it is an official policy of UNFPA that all UNFPA-funded programmes have to be undertaken in accordance with universally recognized human rights.

International Research and Training Institute
for the Advancement of Women

[Original: English]
[2 May 1996]

40. INSTRAW would like to recommend that a paragraph on the specific conditions and needs of women migrant workers be included in Section V of Sub-Commission resolution 1995/16.

41. This recommendation is based on the fact that although men and women account for about equal proportions of internal and international migration, little attention has been given to the conditions and needs of women migrant workers who are subject to exploitation in terms of low wages and poor working conditions. For example, migrant women working in textile, frozen food, electronics or chemical factories are often subject to health hazards in the workplace. Migrant women working in the entertainment sector are commonly forced to provide sexual services and as a result are exposed to sexually transmitted diseases.

42. However, as shown in the INSTRAW publication Migration of Women, Methodological Issues in the Measurement and Analysis of Internal and International Migration (1994), most research on migration has centred around male migrants or has been gender neutral. In addition, it should be noted that none of the conventions relating to migrant workers address specific concerns of female migrant workers.

III. INFORMATION RECEIVED FROM INTERGOVERNMENTAL ORGANIZATIONS

International Criminal Police Organization

[Original: French]
[9 June 1995]

43. On 12 January 1995, the General Secretariat of ICPO/INTERPOL sent its usual circular to the National Central Bureaux of member countries, asking for information on cases of slavery or slavery-like practices brought to the attention of the justice or police authorities in 1994.

44. By 7 June 1995, the General Secretariat had received replies from the following 57 countries or territories: Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Belarus, Bermuda, Botswana, Brunei, Canada, Chile, Croatia, Cyprus, Fiji, Finland, France, Hong Kong, Hungary, India, Ireland, Israel, Japan, Jordan, Kuwait, Lesotho, Latvia, Libya, Luxembourg, Malaysia, Malta, Mexico, Monaco, Mongolia, Namibia, Netherlands, Portugal, Qatar, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Swaziland, Sweden, Switzerland, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and Zambia.

45. Of the 57 countries mentioned above, 54 said that no case corresponding to the definitions of slavery, servitude or slave trade had been recorded or been the subject of an exchange of information between Interpol National Central Bureaux in 1994.

46. Three countries reported the following cases:

(a) The National Central Bureau of Spain said that no case corresponding to the United Nations definition of slavery had been reported. However, the police had discovered slavery-like practices involving the use of illegal labour in garment production and catering activities by organized groups of foreign origin. This labour force consists of immigrants, some of them minors, who are forced to work for several years without pay in order to reimburse the cost of their "passage" to Spain. These persons live and work in unhealthy and unsafe conditions. The National Central Bureau of Spain also reported the exploitation of minors who are forced to beg;

(b) The National Central Bureau of France mentioned a number of cases of exploitation of illegal immigrants. On their arrival, they are deprived of their identity papers and thus find themselves in a situation of dependence. They live and work in degrading conditions for several years in order to repay the organizer of the illegal immigration network;

(c) The National Central Bureau of Israel reported two cases of offences under the marriage laws which could correspond to one of the definitions of servitude. One of these cases concerns non-compliance with the prohibition of marriage and the other the non-observance of the minimum marriageable age.

47. Two countries reported that legislation had been passed or had entered into force in 1994:

(a) The National Central Bureau of France referred to the provisions of the new Penal Code which entered into force on 1 March 1994. Articles 225-13 et seq. of the Code, concerning working and housing conditions inconsistent with the dignity of the individual, strengthen the penalties for slavery-like practices;

(b) The National Central Bureau of India reported the passage of "The Protection of Human Rights Act 1993", which entered into force on 8 January 1994.

International Monetary Fund

[Original: English]
[18 April 1996]

48. The International Monetary Fund advised that the important subject matter of contemporary forms of slavery falls outside its mandate and scope of activities.

Organization for Security and Cooperation in Europe

[Original: English]
[4 April 1996]

49. As the OSCE States have not adopted any commitments with regard to slavery - in particular with regard to child prostitution, child pornography, trafficking in organs or the eradication of debt bondage - the Office for Democratic Institutions and Human Rights (ODIHR) does not have any information to provide on this subject. This is also due to the scarce amount of information available on the subject; few governmental institutions, research institutes or NGOs appear to have produced comprehensive reports on the subject - at least as far as the region of the Commonwealth of Independent States is concerned.

50. However, the ODIHR does have a mandate with respect to migrant workers. Working conditions of migrant workers are regularly discussed at the OSCE Implementation Meetings and in 1994 ODIHR organized a human dimension seminar on the subject.

League of Arab States

[Original: Arabic]
[2 April 1995]

51. The league of Arab States endorses the view expressed in resolution 1994/5 concerning the extreme gravity of the information contained in the report of the Working Group on Contemporary Forms of Slavery relating to the traffic in persons, the exploitation of the prostitution of others, the sale of children, child prostitution, child pornography, the exploitation of child labour, debt bondage, the alleged practice of removal of organs and slavery-like practices such as the phenomenon of child soldiers. The League of Arab States, being deeply concerned at those inhuman practices, supports all the endeavours made by the Working Group and the Special Rapporteur to obtain information concerning this issue, as well as the steps and measures that States have adopted to implement the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, and to encourage Governments to create programmes aimed at the social rehabilitation of all victims of trafficking, prostitution and pornography, particularly children. The League is calling for international cooperation to establish such programmes, to promulgate laws and regulations to protect children from exploitation and to put an end to all those practices, since the development and care of children and the protection of their rights are a fundamental constituent of the social environment; they can even be said to be the essence of the overall environment, since children represent the future and endeavours must be made to ensure their full welfare, surround them with adequate safeguards and provide them with the basic services needed to help them to develop and to enhance their social and productive capacities in order to promote the advancement and progress of the nation by strengthening and consolidating the foundations of the family and society.